

REMARKS

Claims 34-41, 55-64 and 73 are in the case. Applicants acknowledge the allowance of claims 55-64, and the indication that the subject matter of claim 40 would be allowable if placed in independent form.

Claims 34-39, 41 and 73 have been rejected under 35 U.S.C. 102(b) as being anticipated by Coccozza. This rejection is respectfully traversed.

The Examiner has not addressed, in the Response to Arguments section of the office action, a key difference between Applicants' claimed invention and Coccozza which was pointed out in Applicant's last response. As discussed in Applicants' previous response, Applicants' claims require that a surface of the flow path (claim 34) or the scraper (claim 35) or brush (claim 73) be "configured...to contact the at least one of the surfaces of the flow path such as to dislodge powder accumulated thereon." This contact is an important feature of Applicants' claimed invention, as this contact is what allows accumulated powder to be dislodged from surfaces of the flow path on which the powder has accumulated. It is necessary that one surface of the flow path, e.g., the scraper or brush, contact another surface of the flow path on which powder is accumulated, e.g., the wall of the flow path, in order to sweep the surface and thereby remove adhered powder with a scraping or brushing action.

There is no indication that any structure described by Coccozza is configured to contact a surface of the flow path, whether Coccozza uses a fixed helical element or a rotating impeller.

In the case of the rotating impeller, the impeller would not contact the wall. If the impeller were to contact the wall, it would not be rotatable in the flowing air. It is the purpose of the impeller (or helical element) in Coccozza to disintegrate agglomerates that are entrained with the flowing air during inhalation by a patient. (See, e.g., col. 10, lines 8-10 and 38-42.) Thus, it would be contrary to the stated function of Coccozza if the impeller were to contact the wall, since this contact would interfere with or prevent activation of the impeller by the patient's breath.

Moreover, it is well known in the mechanical arts that an impeller is a rotating component that is positioned to rotate freely inside a tube or conduit to increase the pressure and flow of a fluid passing through the tube or conduit. (In Coccozza's device, to create sufficient air pressure to break up the agglomerates of medicament in the airstream.) Thus, it is understood by

those of skill in the mechanical arts that, in order for an impeller to function properly, the impeller must not contact the inner wall of the tube in which it is positioned. The term "impeller" is used in Coccozza in a manner that is consistent with this commonly understood meaning.

Nor is the helical element 188 configured to contact the flow path in the manner recited in Applicants' claims. The Examiner states, on page 3 of the Office Action, that "the helical element 188 is defined as the scraper or brush, and it contacts the other" Applicants respectfully disagree with the Examiner's interpretation of Coccozza. The helical element cannot be properly interpreted as a scraper or brush as recited in Applicants' claims at least for the reason that the helical element 188 is a fixed part (see col. 10, line 10). As previously discussed, the helical element is not movable at all, and thus it cannot be construed to be "configured on relative movement of the at least one and one other of the surfaces of the flow path, to contact the other of the at least one or at least one other of the surfaces of the flow path," as required by Applicants' claim 34.

Nor is there any indication in Coccozza that any part of the Coccozza device would be capable of dislodging powder accumulated on a surface of the flow path, as required by Applicants' claims. Dislodging of accumulated powder is not Coccozza's intent; instead, Coccozza is concerned only with disintegrating agglomerations in the medicament to be inhaled, which agglomerates are *entrained with the flowing air*. (See, e.g., col. 10, lines 8-10 and 38-42.) Disintegrating agglomerations during inhalation is a very different function from dislodging powder accumulated on surfaces of the flow path.

With regard to claim 73, Applicants maintain that, in addition to the reasons advanced above, claim 73 is patentable because Coccozza's helical element or rotating impeller cannot reasonably be interpreted as a brush.

In view of the above, Applicants respectfully request withdrawal of this rejection and allowance of all claims.

Please apply the Extension of Time fee and any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 06275-131002.

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Respectfully submitted,

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